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GRANT KONVALINKA & HARRISON, P.C.
A PROFESSIONAL CORPORATION

John R. Anderson

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APR 18 2008

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OFFICE OF GENERAL COUNSEL

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DATE: April 18, 2008

TO: Devin M. Wells
Assistant General Counsel

COMPANY: TDEC Office of General Counsel

FROM: John R. Anderson

SUBJECT: Appeal of Order and Assessment
*In the Matter of: Hamilton County Water & Wastewater Treatment Authority,
Respondent, State of Tennessee Department of Environment and Conservation,
Division of Water Pollution Control, Case No. WPC07-0266*

NO. OF PAGES: 32 (including cover)

FAX NO.: (615) 532-0145

Time Sent: _____

SHOULD YOU HAVE ANY DIFFICULTY RECEIVING THIS DOCUMENT, PLEASE CALL
PHILLIS MOSELEY AT (423) 756-8400.

COMMENTS:



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April 18, 2008

Appeal of Enforcement Order
TDEC Office of General Counsel
20th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1548

BY FACSIMILE (615) 532-0145
ORIGINAL BY FEDERAL EXPRESS

Re: Appeal of Order and Assessment
In the Matter of: Hamilton County Water & Wastewater Treatment Authority,
Respondent, State of Tennessee Department of Environment and Conservation,
Division of Water Pollution Control, Case No. WPC07-0266

To Whom It May Concern:

Enclosed is the Response of the Hamilton County Water & Wastewater Treatment Authority to Commissioner's Order and Assessment and Petition for Hearing hereby filed in the above-captioned matter. Please contact me with any questions or concerns or to discuss the matters at issue. We are also interested in conducting informal discussions regarding resolution of this matter.

Very truly yours,



John R. Anderson

Enclosure

cc: Hon. James H. Fyke, w/enc. (By Facsimile/Federal Express)
Paul E. Davis, w/enc. (By Facsimile/Federal Express)
Devin M. Wells, Esq., w/enc. (by Email/Facsimile/Federal Express)
Chairman Henry A. Hoss, w/enc. (by E-mail)
Executive Director Cleveland T. Grimes, w/enc. (by E-mail)

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF WATER POLLUTION
)	CONTROL
HAMILTON COUNTY WATER &)	
WASTEWATER TREATMENT)	
AUTHORITY)	
)	
RESPONDENT)	CASE NUMBER WPC07-0266

**RESPONSE OF THE HAMILTON COUNTY WATER & WASTEWATER
TREATMENT AUTHORITY TO COMMISSIONER'S ORDER AND
ASSESSMENT AND PETITION FOR HEARING**

Comes Respondent, Hamilton County Water & Wastewater Treatment Authority ("Respondent"), by and through its counsel, Grant, Konvalinka & Harrison, P.C., and for its Response to the Commissioner's Order and Assessment issued to it in this matter states as follows in response to the correspondingly numbered paragraphs:

PARTIES

I. The Hamilton County Water & Wastewater Treatment Authority (hereinafter "Respondent") files this Petition, pursuant to T.C.A. §§ 69-3-109, 69-3-110, 69-3-115, 69-3-116, and 4-5-301, et seq., to appeal the Commissioner's Order and Assessment issued against it on March 20, 2008, to the Tennessee Water Quality Control Board (hereinafter the "Board"). The Respondent requests that this matter be heard by the Board, but requests that it not be scheduled for a hearing pending the outcome of discussions between the Respondent and the Division of

Water Pollution Control (hereinafter "Division") in an attempt to resolve the issues in controversy. In support of this Response and Petition for Hearing to Appeal the Commissioner's Order and Assessment, Respondent would show the Board the following: Respondent admits on information and belief the allegations of Paragraph I of the Order and Assessment.

II. Respondent admits the allegations of Paragraph II of the Order and Assessment.

JURISDICTION

III. As Paragraph III sets forth legal conclusions, no response is required.

IV. Respondent admits that it is a "person" as defined at T.C.A. § 69-3-103(20). The remaining allegations of Paragraph IV of the Order and Assessment are denied.

V. As Paragraph V of the Order and Assessment sets forth legal conclusions, no response is required.

FACTS

VI. Respondent avers in response to Paragraph VI of the Order and Assessment that a NPDES Permit TN0021211 ("permit") was issued to Respondent on March 31, 2003. Respondent avers that the foregoing permit was effective May 1, 2003, avers the permit was modified on October 1, 2007, and avers that the permit expires on August 31, 2009. Respondent avers that the permit authorizes Respondent to discharge municipal wastewater to the Tennessee River at mile 453.7 with certain limitations. Respondent avers that the permit placed only on the Signal Mountain system a moratorium on any additional connections, with the exception of the new public school campus being constructed by Hamilton County, Tennessee, and with exception

of connections approved prior to June 11, 2007, but not yet connected. This moratorium was placed on the Signal Mountain Collection System which flows to the Signal Mountain Sewage Treatment Plant ("STP") by email dated June 11, 2007 sent from Richard Urban to Cleveland Grimes, a copy of which is attached hereto as Exhibit "A." The email advised that the moratorium was imposed by TDEC effective June 11, 2007. Respondent admits that it was advised it was going to be required to submit a list of all connections that were contractually approved before June 11, 2007, and avers that it was to receive certain information and a compliance schedule from TDEC's representative, Dr. Richard Urban, prior to submitting said information. Any remaining allegations in Paragraph VI of the Order and Assessment are denied.

VII. As Paragraph VII of the Order and Assessment sets forth legal conclusions, no response is required.

VIII. In response to the allegations stated in Paragraph VIII of the Order and Assessment, Respondent admits that Division of Water Pollution Control (the "Division") personnel conducted a Compliance Evaluation Inspection ("CEI") at the STP of Respondent on February 12, 2004. Respondent denies that the flow meter was out of service. Respondent admits that the STP was bypassing in accordance with the permitted design and that such STP was operating as it had with the full knowledge and approval of the Division during the inspection. Respondent states that the STP was operating in accordance with its permit. Respondent is without information sufficient to admit or deny the remaining allegations of Paragraph VIII of the Order and Assessment and, therefore, denies the same.

IX. Respondent admits in response to the allegations in Paragraph IX of the Order and Assessment that it received from the Division personnel a report dated February 24, 2004 relating to the CEI conducted on February 12, 2004. The referenced report, which is attached hereto as Exhibit "B," speaks for itself. Respondent admits that a written response to the February 24, 2004 report was requested by Division personnel and that Respondent timely complied. As to the legal conclusions contained in Paragraph IX of the Order and Assessment, no response is required.

X. Respondent admits that it sent correspondence dated March 23, 2004 to the Division, a copy of which is attached hereto as Exhibit "C," and avers that the correspondence speaks for itself. Respondent admits the allegation that the report sent by the Division dated February 24, 2004 as referenced in Paragraph IX was styled as a "NOV" as alleged in Paragraph X.

XI. Respondent admits that the Division personnel conducted a CEI at the Signal Mountain STP on September 14, 2005. Respondent is without information sufficient to admit or deny the Division's observations. Respondent admits that the Division sent correspondence to Respondent dated January 26, 2006, a copy of which is attached hereto as Exhibit "D," concerning the September 14, 2005 CEI and avers that the correspondence speaks for itself. Respondent avers that no notice of violation ("NOV") was set forth on any issue in said January 26, 2006 correspondence from the Division. Respondent admits that the clarifier was

being serviced during the time of the CEI on September 14, 2005. As to the legal conclusions in Paragraph XI of the Order and Assessment, no response is required.

XII. Respondent admits in response to Paragraph XII of the Order and Assessment that the Division personnel sent correspondence dated January 26, 2006 and avers that the correspondence speaks for itself. Respondent avers that it sent its response thereto in correspondence to the Division dated February 22, 2006, a copy of which is attached hereto as Exhibit "E," and that such correspondence speaks for itself. As to the legal conclusions in Paragraph XII of the Order and Assessment, no response is required.

XIII. Respondent admits in response to Paragraph XIII of the Order and Assessment that it met with Division personnel on February 13, 2007 at the Division's Field Office in Chattanooga, Tennessee, to discuss the operation of the Signal Mountain STP. Respondent avers that it discussed with the Division personnel projected growth on Signal Mountain stemming from the completion of the new high school on Signal Mountain by the Hamilton County Department of Education. Respondent avers that two (2) options were discussed by Division personnel at the February 13, 2007 meeting and by Dr. Richard Urban at the Respondent's Board meeting on February 21, 2007, which Dr. Urban attended. Respondent avers that at the February 13, 2007 meeting and at the February 21, 2007 Board meeting of Respondent, it was made clear to Division personnel and to Dr. Urban that Respondent preferred a modified NPDES permit with a compliance schedule option.

XIV. Respondent avers that a modified permit ostensibly was issued on October 1, 2007, which incorporated the moratorium on any new additions to the Signal Mountain collection system, which moratorium was issued on June 11, 2007. The modified permit allowed new additions to the Signal Mountain collection system which were contractually approved by Respondent prior to June 11, 2007 by email dated June 11, 2007, sent from Richard Urban to Cleveland Grimes. Respondent admits that the modified permit contained a requirement to provide previously approved connections. Respondent avers that it has at all times acted in good faith in response to and in dealing with Division personnel, and that Respondent has relied on representations of Division personnel relating to responding to the process. Respondent further avers that Division personnel knew Respondent wanted to pursue the modified permit/compliance schedule option and that Division personnel represented that the Division would accordingly work with Respondent to develop the modified permit and compliance schedule only after Respondent's engineers had the opportunity to evaluate alternatives to the current Signal Mountain STP. Division personnel represented at the February 13, 2007 meeting and the February 21, 2007 Board meeting of Respondent that a moratorium would not be imposed until the modified permit and compliance schedule were developed between the Division and the Respondent, and that such modified permit and compliance schedule could only be developed after Respondent's engineers had an opportunity to develop alternatives. Respondent avers this is documented in the minutes of its Board meeting of February 21, 2007 which was attended by Dr. Richard Urban.

XV. Respondent denies the allegations of Paragraph XV of the Order and Assessment, as stated, and avers that from January 2005 through December 2007 (which Respondent presumes the Division means January 1, 2005 through December 31, 2007), Respondent reported 131 treated bypasses in accordance with the Signal Mountain STP's design and permit with the operations of the STP being with the full knowledge and approval of the Division, and that one (1) overflow in the Signal Mountain collection system occurred. Respondent denies that such constitutes an unpermitted discharge. The Signal Mountain STP's design and its permitted history speaks for itself and is well documented.

VIOLATIONS

XVI. Respondent denies that it has violated T.C.A. § 69-3-108(b)(1),(2), and (6), and § 69-3-114(b), in response to Paragraph XVI of the Order and Assessment.

ORDER AND ASSESSMENT

XVII. In response to Paragraph XVII of the Order and Assessment that Respondent has relied to its detriment on Division personnel's directions and representations, has at all times acted in good faith to discharge its responsibilities and obligations under its permits and under applicable law, denies various implications of non-compliance through Paragraph XVII of the Order and Assessment, and reserving all rights and privileges in law and equity, further responds as follows:

1. In response to Paragraph XVII(1) of the Order and Assessment, Respondent avers that it should within twelve (12) months from the receipt of the Order to submit for approval to

the Division a Corrective Action Plan/Engineering Report ("CAP/ER") on the Signal Mountain collection system.

2. In response to Paragraph XVII(2) of the Order and Assessment, Respondent avers that it should within sixty (60) days after submission to the Division, provided that Respondent receives no adverse comment from the Division, but in any event sixty (60) days after such adverse comments, if any, initiate the actions as stated in the CAP/ER submitted to the Division.

3. In response to Paragraph XVII(3) of the Order and Assessment, Respondent avers that all scheduled activities in the CAP/ER which has been expressly approved in writing by the Division shall be completed within sixty (60) months after the CAP/ER has been finally and expressly approved in writing by the Division and notice thereof given to Respondent.

4. In response to Paragraph XVII(4) of the Order and Assessment, Respondent avers it will submit to the Division not later than May 20, 2008 its proposed sewer overflow response plan ("SORP") for the Signal Mountain system.

5. In response to Paragraph XVII(5) of the Order and Assessment, Respondent agrees that thirty (30) days after it receives express written approval from the Division of the SORP for the Signal Mountain system that Respondent shall fully implement the Signal Mountain SORP.

6. In response to Paragraph XVII(6) of the Order and Assessment, Respondent avers that it will within twelve (12) months of the date of this Order revise or develop or submit to the Division for the Division's review and comment a Maintenance Operation and Management

("MOM") program for the entire Signal Mountain system which addresses the plant, any pump stations and collection systems related thereto.

7. In response to Paragraph XVII(7) of the Order and Assessment, after the MOM program for the Signal Mountain collection system is approved in writing by the Division and provided to Respondent, Respondent shall submit an annual report setting forth all updates and changes, if any, to the Signal Mountain MOM program.

8. In response to Paragraph XVII(8) of the Order and Assessment, Respondent agrees that by March 20, 2009, that it will maintain written capacity, collection and treatment protocols for the Signal Mountain system.

9. In response to Paragraph XVII(9) of the Order and Assessment, Respondent avers that Respondent has not submitted to the Division its complete list of all connections that Respondent had approved prior to June 11, 2007 upon reliance of the representations and directions of the Division personnel. Respondent agrees to submit by May 31, 2008 its list of all such connections approved prior to June 11, 2007. Respondent further avers that if, and only if, Respondent connects to the Chattanooga Regional Sewer System and surrenders all/or terminates its NPDES Permit No. TN0021211 for the Signal Mountain Sewage Treatment Plant, then the moratorium set forth in Part III, Section G of the Modification dated October 1, 2007 of the NPDES Permit No. TN0021211 shall immediately be deemed terminated by the Department.

10. In response to Paragraph XVII(10) of the Order and Assessment, Respondent avers that it shall complete all agreed upon requirements of the Order and achieve full compliance with

the permit not later than December 31, which is next following the sixtieth (60th) month after Respondent receives express written approval from the Division of Respondent's CAP/ER as set forth in the Response to Paragraph XVII(3) of the Order and Assessment.

11. In response to Paragraph XVII(11) of the Order and Assessment, Respondent avers that the amounts are arbitrary, capricious and unsupported by law or fact, and further states:

- (a) The Twenty-Five Thousand Dollars (\$25,000.00) be set aside.
- (b) If, and only if, the Respondent fails to comply with Paragraph XVII(1) above in a timely fashion, the Respondent will pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (c) If, and only if, the Respondent fails to comply with Paragraph XVII(2) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (d) If, and only if, the Respondent fails to comply with Paragraph XVII(3) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (e) If, and only if, the Respondent fails to comply with Paragraph XVII(4) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen

Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.

- (f) If, and only if, the Respondent fails to comply with Paragraph XVII(5) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (g) If, and only if, the Respondent fails to comply with Paragraph XVII(6) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (h) If, and only if, the Respondent fails to comply with Paragraph XVII(7) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (i) If, and only if, the Respondent fails to comply with Paragraph XVII(8) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) per report not to exceed a total of Twenty Thousand Dollars (\$20,000.00) for all reports payable within thirty (30) days of written notice of default and failure to cure by Respondent.

- (j) If, and only if, the Respondent fails to comply with Paragraph XVII(9) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.
- (k) If, and only if, the Respondent fails to comply with Paragraph XVII(10) above in a timely manner, the Respondent shall pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000.00) payable within thirty (30) days of written notice of default and failure to cure by Respondent.

STATEMENT OF RESPONDENT'S CONTENTIONS

XVIII. All allegations set forth in this Order and Assessment not specifically admitted or denied in the foregoing Response are denied.

XIX. Respondent contends that the timeframe set forth in the Order and Assessment are unreasonable and incommensurate with the alleged violation and not in keeping with the Division's other Orders and Assessments in such similar situations.

XX. Respondent contends that the Order requiring all the actions in Paragraph XVII of the Order and Assessment be suspended pending final decision on this action.

XXI. Respondent objects generally to the Order and Assessment on the basis that the Order, requirements, and civil penalties set forth are arbitrary, capricious, excessive, an abuse of discretion, and in excess of statutory and regulatory authority in light of the relevant facts and circumstances.

XXII. Respondent was sent via certified mail on March 20, 2008, a Commissioner's Order and Assessment in Case No. OGC 07-0266 issued on March 20, 2008. On April 18, 2008, Respondent serves this, its Response to Order and Assessment and Petition for Hearing to Appeal the Order and Assessment. Thus, this Petition for Hearing to Appeal the Commissioner's Order and Assessment is hereby timely filed on behalf of Respondent.

PETITION FOR HEARING

XXIII. WHEREFORE, in consideration of the foregoing, Respondent respectfully petitions for and requests a hearing before the State of Tennessee, Department of Environment and Conservation, Division of Water Pollution Control Board. Respondent would ask the Board:

1. To find the Order and Assessment to be arbitrary, capricious, excessive, an abuse of discretion, and in excess of statutory and regulatory authority and that it, therefore, shall be dismissed or ordered to be withdrawn as to the Respondent or, in the alternative, to delete or substantially reduce the civil penalties and damages and modify substantially the compliance measures set forth in the Order and Assessment;
2. To suspend, pending a final decision of this action, the Order insofar as it requires the creation and implementation of a sewer overflow response plan and all civil penalties, time periods, deadlines and other requirements connected with the Order and Assessment;
3. To suspend, pending a final decision of this action, the Order insofar as it requires the creation and implementation of a plan for capacity maintenance and operations management

programs and all civil penalties, time periods, deadlines and other requirements connected thereto; and

4. That Respondent be afforded such other relief to which it may be entitled.
Respondent reserves its right to modify its Response and petitions at a later time.

Respectfully submitted,

GRANT KONVALINKA & HARRISON, P.C.

By: 

John R. Anderson (BPR No. 010732)

David C. Higney (BPR No. 14888)

Ninth Floor, Republic Centre

633 Chestnut Street

Chattanooga, Tennessee 37450-0900

Telephone: (423) 756-8400

Facsimile: (423) 756-0643

*Counsel for Hamilton County Water &
Wastewater Treatment Authority*

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Response of the Hamilton County Water & Wastewater Treatment Authority to Commissioner's Order and Assessment and Petition for Hearing to Appeal said Order and Assessment in TDEC-DWPC Case No. 07-0266 was sent by e-mail, facsimile and overnight delivery to:

Devin M. Wells, Esq.
Assistant General Counsel
Tennessee Department of Environment & Conservation
L & C Tower, 20th Floor
401 Church Street
Nashville, TN 37243-1548

and that a copy of the same was sent by facsimile and overnight delivery to the following:

Hon. James H. Fyke
Commissioner
Tennessee Department of Environment & Conservation
L & C Annex, 1st Floor
401 Church Street
Nashville, TN 37243-1548

Mr. Paul E. Davis
Director, Division of Water Pollution Control,
Tennessee Department of Environment & Conservation - and -
Technical Secretary, Tennessee Water Quality Control Board
L & C Annex, 6th Floor
401 Church Street
Nashville, TN 37243-1534

on this the 18th day of April, 2008.



GRANT KONVALINKA & HARRISON, PC

EXHIBIT "A"

-----Original Message-----

From: Richard Urban [mailto:Richard.Urban@state.tn.us]
Sent: Monday, June 11, 2007 8:13 AM
To: Grimes, Cleveland
Subject: WWTAs Signal Mountain waste Water Treatment Plant

Cleveland;

I will out of the office today in Ducktown, TN; but I wanted to let you know that late Friday afternoon I was informed that a Modified NPDES Permit for the Signal Mountain Waste Water Treatment Plant will be placed on Public Notice. The modification is for the Moratorium ONLY. The effective date of the Moratorium will be June 11, 2007.

The Central Office and the Office of General Council have ruled that we cannot place a compliance schedule in the NPDES Permit. I have argued the case the best I can but the problem was we cannot issue a compliance schedule for an unpermissible issue - namely the by-passes.

Consequently, the compliance issues will be handled via another mechanism. As we talked when you were here recently, it is possible it will be an Order. If it is an Order, I have been assured that the up-front penalty can be minimized. The other possibility that is being discussed is a Compliance Agreement. This is being discussed with EPA to determine if they will agree to this possible alternative.

The bottom line is that a modified permit will be issued for public comment today and the remaining elements of the compliance schedule we have discussed will be forthcoming in a different format but with the same elements.

If you have any questions I will be back in the office Tuesday (I do have several things scheduled) so leave me a voice message or e-mail.

Dick

EXHIBIT "B"



ENVIRONMENTAL ASSISTANCE CENTER
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
540 McALLIE AVE., SUITE 550
CHATTANOOGA, TENNESSEE 37402
PHONE (423) 634-5745 STATEWIDE 1-888-891-8332 FAX (423) 634-6389

February 24, 2004

CERTIFIED MAIL
7002-2410-0000-8262-4631

Mr. Cleveland Grimes
Hamilton County Water and Wastewater Authority
P.O. Box 8856
Chattanooga, TN 37414-8856

Re: Compliance Evaluation Inspection
Signal Mountain Sewage Treatment Plant
NPDES Permit Number TN0021211
Hamilton County, Tennessee
Notice of Violation

Dear Mr. Grimes:

On February 12, 2004, Ms. Angela M. Young and Mr. Mounir Minkara of my staff performed a Compliance Evaluation Inspection (CEI) of the Signal Mountain Sewage Treatment Plant. Mr. Eugene Baker, Plant Operator provided information during the inspection. Please note that a copy of this inspection report has been forwarded to EPA Region 4 in Atlanta.

CEI Results

Permit rating: satisfactory

NPDES Permit Number TN0021211 became effective May 1, 2003 and shall expire on March 30, 2008. The source of the wastewater and the description of the plant are correct. The correct receiving waters (Tennessee River Mile 453.79) are listed. The effluent limitations are protective of the classified uses for the Tennessee River.

Records and Reports rating: unsatisfactory

Mr. Cleveland Grimes
February 24, 2004
Page 2

Monthly Operation Reports (MOR) and Discharge Monitoring Reports (DMR) are available for review and are filed for a minimum of three years. Review of the original bench sheet data and Monthly Operation Reports for May 2003, September 2002 and January 2001 revealed the following transcription errors:

May 21, 2003 Bench sheet is missing TSS value. TSS value appears on MOR.

Monthly Operating Reports (MOR) show flow reported in MGD although the flow column shows Daily flow x 1000 gallons. The MOR's form is incorrect. New forms will be sent to the plant. Mr. Baker sends DMR's via certified mail in order to insure that DMR's are received in a timely matter.

For each measurement or sample taken the permittee should record the information located in NPDES Permit Part 1 Section B-4, Recording of Results. BOD5 Bench sheet should show time analysis began after sample collection to insure samples are within holding time. The time analysis began on day five of BOD5 should also be shown on Bench sheet. Columns on Bench sheets should have headings that let the viewer know what is %Removal lbs and mg/L.

The unsatisfactory rating is due to reporting influent flow on DMR when there is no functioning influent flow device.

Facility Site Review rating: unsatisfactory

The buildings and grounds were in good condition. All treatment units were in service during the inspection. The influent flow meter was not in service during inspection. There were no warning devices in place to let operators know when the plant reaches maximum flow. The plant required operators to manually put a metal plate in place to go to bypass mode. If an operator were not on site during a rainfall event, a plant washout would be likely.

Effluent/Receiving Waters rating: unsatisfactory

The visual quality of the discharge was marginal during the inspection. The Plant was bypassing during inspection. Since the last inspection there were the following violations:

- **May 2003**
BOD5 Wkly Avg. lbs/day.
Fecal Coliform Daily Maximum

Mr. Cleveland Grimes
February 24, 2004
Page 3

Flow Measurement rating: unsatisfactory

Influent flow is not being measured. Effluent flow is measured using a 90° V notched weir. Head measurements are taken using a Manning Technologies Ultrasonic Flowmeter. Last known calibration was in December 2002. Failure to measure influent flow and calibration of existing flow device results in an unsatisfactory rating and is in violation of the provisions of the NPDES Permit Part 1 Section A and B.

Self-Monitoring Program rating: unsatisfactory

Samples are collected of both the influent and effluent at a frequency specified in the permit. 24-hour flow proportioned samples of effluent are collected using an automatic sampler. Flow proportionate samples are not collected from influent. Sample units are refrigerated but influent sampler was not maintaining 4± 2° C during inspection. All data is included in the self-monitoring reports. Composite samples must be proportioned by flow at time of sampling. Representative samples are not being collected in accordance with NPDES Permit Part 1 Section B. 1.

Compliance Schedule rating: unsatisfactory

The Signal Mountain STP has not met the compliance schedule items contained in permit. The monitoring requirements for flow are to report influent flow 7 times a week.

Laboratory rating: satisfactory

All analyses are performed using 40 CFR Part 136 approved methodology. A Quality Assurance/Quality Control program is in place. A written lab equipment maintenance and calibration log is in place. Standard reagent and solvents are properly stored. Expired reagents are disposed of properly. An eye wash station is needed.

Operation and Maintenance rating: satisfactory

There are two full-time operators, one of which holds current Wastewater Treatment Plant certifications. Routine preventative maintenance is performed on schedule and emergency maintenance is performed as needed. Operators use a daily checklist to ensure that all areas of plant are routinely inspected.

Mr. Cleveland Grimes
February 24, 2004
Page 4

Sludge Handling rating: marginal

Waste activated sludge from the plant is aerobically digested. The drying beds were not in use at the time of inspection. Liquid sludge is hauled to Moccasin Bend Wastewater Treatment Facility.

Sewer Overflow rating: unsatisfactory

The plant experienced 48 bypasses from January 1, 2003 to December 31, 2003. No overflows have been reported.

Pretreatment Program, Pollution Prevention, and Multimedia were not evaluated during the inspection.

Stormwater was evaluated during the inspection and was reported separately.

Statement of Violations

By failing to have the appropriate flow measurement devices, Hamilton County Water and Wastewater Authority has violated Part 1, Section A and B. 1. of NPDES Permit Number TN0021211.

By violating provisions of NPDES Permit Number TN0021211, Hamilton County Water and Wastewater Authority has also violated Tennessee Code Annotated Section 69-3-114(b)

Requested Information and Required Actions

It is requested that a written response to this report be submitted to this office by March 26, 2004. The response needs to outline what corrective actions will be taken to correct the above listed effluent violations and plant deficiencies.

We would like to thank Mr. Baker for his time and assistance during the inspection. If you have any questions or comments concerning either the inspection or this report, please contact Ms. Young at (423) 634-5708.

Mr. Cleveland Grimes
February 24, 2004
Page 5

Sincerely,

William M. Kelley for

Richard D. Urban, Ph. D.
Manager
Division Of Water Pollution Control
Chattanooga Field Office

Attachment

- cc: Environmental Protection Agency, Clean Water Act Enforcement Section, Atlanta
Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303
- cc: Division of Water Pollution Control, Enforcement and Compliance Section,
Nashville
- cc: Division of Water Pollution Control, Municipal Facilities Section, Nashville


United States Environmental Protection Agency
Washington, D. C. 20460

Form Approved.
OMB No. 2040-0057

Water Compliance Inspection Report

Section A: National Data Coding (i.e., PCS)

Transaction	Code	NPDES	yr / mo / dy	Inspection Type	Inspector	Facility Type
N	5	T N 0 0 2 1 2 1 1	0 4 0 2 1 2	C	S	1

Remarks

Inspection Work Days	Facility Self-Monitoring Rating	BI	QA	Reserved
1	1	N	N	

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)

Signal Mountain STP/ Hamilton County WWTa
Suck Creek Rd
Chattanooga, Hamilton County, Tennessee

Entry Time / Date

0930/040212

Permit Effective Date

03/05/01

Exit Time / Date

1200/040212

Permit Expiration Date

08/03/30

Name(s) of Onsite Representative(s) / Title(s) / Phone and Fax Number(s)

Mr. Eugene Baker, Operator ph. (423) 886-4224

Other Facility Data

Chattanooga, Tennessee

Name, Address of Responsible Official / Title / Phone and Fax Number

Mr. Cleveland Grimes/Superintendent (423) 209-7810
P.O. Box 8856 FAX (423) 209-7843
Chattanooga TN 37414

Contacted

☒ Yes ☐ No

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	<input checked="" type="checkbox"/> Flow Measurement	<input checked="" type="checkbox"/> Operation & Maintenance	<input checked="" type="checkbox"/> CSO / SSO (Sewer Overflow)
<input checked="" type="checkbox"/> Records / Reports	<input checked="" type="checkbox"/> Self-monitoring Program	<input checked="" type="checkbox"/> Sludge Handling	<input type="checkbox"/> Pollution Prevention
<input checked="" type="checkbox"/> Facility Site Review	<input checked="" type="checkbox"/> Compliance Schedule	<input type="checkbox"/> Pretreatment Program	<input type="checkbox"/> Multimedia
<input checked="" type="checkbox"/> Effluent / Receiving Waters	<input checked="" type="checkbox"/> Laboratory	<input type="checkbox"/> Storm Water	<input type="checkbox"/> Other

Section D: Summary of Findings / Comments (Attach additional sheets of narrative and checklists as necessary)

See Attached

Name(s) and Signature(s) of Inspector(s)

Angela M. Young

Agency / Office / Phone and Fax Numbers

Tennessee Division of Water Pollution Control
Chattanooga Environmental Assistance Center
423-634-5745/ 423-634-6389 (FAX)

Date

04-02-24

Mounir Y. Minkara Ph. D.

Tennessee Division of Water Pollution Control
Chattanooga Environmental Assistance Center
423-634-5745/ 423-634-6389 (FAX)

Date

04-02-24

Signature of Management Q A Reviewer

William M. Kelley

Agency / Office / Phone and Fax Numbers

Tennessee Division of Water Pollution Control
Chattanooga Environmental Assistance Center
423-634-5745 / 423-634-6389 (FAX)

Date

2/19/04

EXHIBIT "C"

March 23, 2004

Mr. Richard D Urban, Ph. D.
State of Tennessee
Division of Water Pollution Control
Department of Environment and Conservation
Enforcement and Compliance Section
540 McCallie Ave., Suite 550
Chattanooga, TN 37402

***Subject: Notice of Violation
NPDES Permit #TN0021211
Hamilton County Water & Wastewater Treatment Authority (WWTA)
Signal Mountain Sewage Treatment Plant (STP)***

Dear Mr. Urban:

In response to the letter of February 24, 2004, serving as a Notice of Violation for Facility Site Review, Effluent/Receiving Waters, Flow Measurement, Self-Monitoring Program, Compliance Schedule, and Sewer Overflow please note the following.

The Violations for Facility Site Review, Flow Measurements, and Compliance Schedule are being addressed with installation of new flow meters at the STP for the influent and effluent by W. Anderton Company. Each flow meter will be equipped with a warning light and an alarm for maximum flow. The influent flow meter will be installed with a stilling-well to aid in better flow monitoring. Both flow meters will be equipped with totalizers and read seven days a week.

The Violations for Effluent/Receiving Waters and the Sewer Overflow are being addressed in the WWTA project to televise and map the Signal Mountain collection system. This project will include smoke testing to help locate potential over flow points and I&I problems. Specifications are being developed and should be bid in sixty days. We will notify your office when the Contract is awarded.

The Operator will be monitoring the refrigerator to insure that the temperature stays within the $4 \pm 2^{\circ}\text{C}$ as the Self Monitoring Program requires. An eye wash and a spill kit have been placed in the Lab. The Operator has mounted life rings on the Clarifier cat walk.

Please find enclosed the Operator's improved BOD5 Bench sheets showing the time of analysis began after the sample is collected and headings that reflect the percent removal. We have also enclosed a copy of the May 21, 2003 Bench sheet for the TSS value.

If you have any questions or need additional information, please contact our office at (423) 209-7842.

Sincerely,

Cleveland T. Grimes
Wastewater Superintendent

Enc.

cc: Henry A. Hoss, Chair
Mike Howard, Chief Engineer
Eugene Baker, Plant Operator

Signal Mtn/State Violation Response CEI

EXHIBIT "D"



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
CHATTANOOGA ENVIRONMENTAL FIELD OFFICE
540 McALLIE AVENUE, SUITE 550
CHATTANOOGA, TENNESSEE 37402

PHONE (423) 634-6745 STATEWIDE 1-888-891-8332 FAX (423) 634-6389

January 26, 2006

CERTIFIED MAIL
7003-3110-0006-2551-6576

Mr. Cleveland Grimes
Hamilton County Water and Wastewater Authority
P.O. Box 8856
Chattanooga, TN 37414-8856

Re: Compliance Evaluation Inspection
Signal Mountain Sewage Treatment Plant
NPDES Permit Number TN0021211

Dear Mr. Grimes:

On September 14, 2005, Ms. Angela Young, Ms. Leetha Abazid, and Mr. Mike Kelley of my staff performed a Compliance Evaluation Inspection (CEI) of the Signal Mountain Sewage Treatment Plant and collection system. Mr. Eugene Baker, Plant Operator provided information during the inspection. Please note that a copy of this inspection report has been forwarded to EPA Region 4 in Atlanta.

CEI Results

Permit rating: satisfactory

NPDES Permit Number TN0021211 became effective May 1, 2003 and shall expire on March 30, 2008. The source of the wastewater and the description of the plant are correct. The correct receiving waters (Tennessee River Mile 453.79) are listed. The effluent limitations are protective of the classified uses for the Tennessee River.

Records and Reports rating: satisfactory

Monthly Operation Reports (MOR) and Discharge Monitoring Reports (DMR) are available for review and are filed for a minimum of three years. Review of the original bench sheet data and Monthly Operation Reports for March 2003, January 2004 and June 2005, revealed the following deficiency:

RECEIVED

FEB 02 2006

HC WWA

Mr. Cleveland Grimes
January 26, 2006
Page 2

- CBOD bench sheets should have the analyst's initials and start up/ readout dates and times.

Facility Site Review rating: marginal

The buildings and grounds were in good condition. An influent flow meter has been installed since the last inspection. A clarifier was not in service during the inspection.

Effluent/Receiving Waters rating: satisfactory

The visual quality of the discharge was satisfactory during the inspection. Since the last inspection there were the no effluent violations.

Flow Measurement rating: satisfactory

An influent flow meter has been installed since the last inspection.

Self-Monitoring Program rating: marginal

Sampling units were not being maintained $4 \pm 2^{\circ}\text{C}$ during the inspection.]

Compliance Schedule rating: satisfactory

Laboratory rating: satisfactory

All analyses are performed using 40 CFR Part 136 approved methodology. A Quality Assurance/Quality Control program is in place. A written lab equipment maintenance and calibration log is in place. Standard reagent and solvents are properly stored. Expired reagents are disposed of properly.

Operation and Maintenance rating: satisfactory

There are two full-time operators, one of which holds current Wastewater Treatment Plant certifications. Routine preventative maintenance is performed on schedule and emergency maintenance is performed as needed. Operators use a daily checklist to ensure that all areas of plant are routinely inspected.

Sludge Handling rating: satisfactory

Waste activated sludge from the plant is aerobically digested. The drying beds were not in use at the time of inspection. Liquid sludge is hauled to Moccasin Bend Wastewater Treatment Facility.

Mr. Cleveland Grimes
January 26, 2006
Page 3

Sewer Overflow rating: unsatisfactory

The plant has experienced 43 bypasses in 2005. Although there have been no reported overflows, it appears the Signal Mountain collection system has significant Inflow & Infiltration that has not been addressed.

Pretreatment Program, Pollution Prevention, and Multimedia were not evaluated during the inspection.

Requested Information and Required Actions

It is requested that a written response to this report be submitted to this office by February 27, 2006. The response needs to outline what corrective actions will be taken to correct the above plant deficiencies.

We would like to thank Mr. Baker for his time and assistance during the inspection. If you have any questions or comments concerning either the inspection or this report, please contact Ms. Young at (423) 634-5708.

Sincerely,



Richard D. Urban, Ph. D.
Manager
Division Of Water Pollution Control
Chattanooga Field Office

Attachment

- cc: Environmental Protection Agency, Clean Water Act Enforcement Section, Atlanta
Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303
- cc: Division of Water Pollution Control, Enforcement and Compliance Section.
Nashville
- cc: Division of Water Pollution Control, Municipal Facilities Section. Nashville


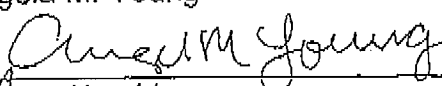

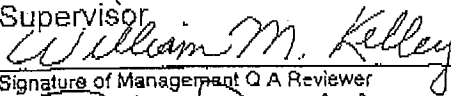

		United States Environmental Protection Agency Washington, D. C. 20460		Form Approved. OMB No. 2040-0057	
Water Compliance Inspection Report					
Section A: National Data Coding (i.e., PCS)					
Transaction	Code	NPDES	yr / mo / dy	Inspection Type	Inspector
N	5	T N 0 0 2 1 2 1 1	0 5 0 9 1 4	C	S
Remarks					
Inspection Work Days	Facility Self-Monitoring Rating	BI	QA	Reserved	
2	2	N	N		
Section B: Facility Data					
Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Signal Mountain STP/ Hamilton County WWTA Suck Creek Rd Chattanooga, Hamilton County, Tennessee				Entry Time / Date	Permit Effective Date
				0930/050914	03/05/01
Name(s) of Onsite Representative(s) / Title(s) / Phone and Fax Number(s) Mr. Eugene Baker, Operator ph. (423) 886-4224 Chattanooga, Tennessee				Exit Time / Date	Permit Expiration Date
				1100/050914	08/03/30
Name, Address of Responsible Official / Title / Phone and Fax Number Mr. Cleveland Grimes/Superintendent (423) 209-7810 P.O. Box 8856 FAX (423) 209-7843 Chattanooga TN 37414				Other Facility Data	
Section C: Areas Evaluated During Inspection (Check only those areas evaluated)					
<input checked="" type="checkbox"/> Permit	<input checked="" type="checkbox"/> Flow Measurement	<input checked="" type="checkbox"/> Operation & Maintenance	<input checked="" type="checkbox"/> CSO / SSO (Sewer Overflow)		
<input checked="" type="checkbox"/> Records / Reports	<input checked="" type="checkbox"/> Self-monitoring Program	<input checked="" type="checkbox"/> Sludge Handling	<input type="checkbox"/> Pollution Prevention		
<input checked="" type="checkbox"/> Facility Site Review	<input checked="" type="checkbox"/> Compliance Schedule	<input type="checkbox"/> Pretreatment Program	<input type="checkbox"/> Multimedia		
<input checked="" type="checkbox"/> Effluent / Receiving Waters	<input checked="" type="checkbox"/> Laboratory	<input type="checkbox"/> Storm Water	<input type="checkbox"/> Other:		
Section D: Summary of Findings / Comments (Attach additional sheets of narrative and checklists as necessary)					
See Attached					
Name (s) and Signature(s) of Inspector(s) Angela M. Young 		Agency / Office / Phone and Fax Numbers Tennessee Division of Water Pollution Control Chattanooga Environmental Assistance Center 423-634-5745/ 423-634-6389 (FAX)		Date January 26, 2006	
Leetha Abazid 		Tennessee Division of Water Pollution Control Chattanooga Environmental Assistance Center 423-634-5745/ 423-634-6389 (FAX)		Date January 26, 2006	
William M. Kelley Supervisor 		Tennessee Division of Water Pollution Control Chattanooga Environmental Assistance Center 423-634-5745/ 423-634-6389 (FAX)		Date January 26, 2006	
Signature of Management QA Reviewer 		Agency / Office / Phone and Fax Numbers Tennessee Division of Water Pollution Control Chattanooga Environmental Assistance Center 423-634-5745 / 423-634-6389 (FAX)		Date 1/26/06	

EXHIBIT "E"

February 22, 2006

Mr. Richard D Urban, Ph. D.
State of Tennessee
Division of Water Pollution Control
Department of Environment and Conservation
Enforcement and Compliance Section
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402

*Subject: Notice of Violation
NPDES Permit #TN0021211
Hamilton County Water & Wastewater Treatment Authority (WWTA)
Signal Mountain Sewage Treatment Plant (STP)*

Dear Mr. Urban:

In response to the letter of January 26, 2006, serving as a Compliance Evaluation Inspection (CEI) for Permit, Records and Reporting, Facility Site Review, Effluent/Receiving Waters, Flow Measurement, Self-Monitoring Program, Compliance Schedule, Laboratory, Operation and Maintenance, Sludge Handling, and Sewer Overflow please note the following:

The CEI for Records and Reports stated that the CBOD bench sheet should have the analyst's initials. The analyst's initials will be added to the time in and time out line on the BOD WORK Sheet. The Facility Site Review stated that the clarifier was not in service during the inspection. The repair to the clarifier skimmer was completed and placed back into service the same day of the inspection. Self-Monitoring Program was rated marginal because the sampling units were not maintained $4 \pm 2^{\circ}$ C. We are presently pricing refrigeration units.

The CEI for Sewer Overflow was rated unsatisfactory because the plant had experienced 43 bypasses in 2005. The WWTa is addressing the bypasses in phases. The first phase was a project to televise and map the Signal Mountain collection system. This project included smoke testing to help locate potential over flow points and I&I problems. Project #03-327 the Signal Mountain Sewer System Cleaning, Inspection & Mapping project was issued a Notice to Proceed February 14, 2005 and the data is presently being reviewed. The next phase will involve sewer main line and manhole rehab.

If you have any questions or need additional information, please contact our office at (423) 209-7842.

Sincerely,

Cleveland T. Grimes
Wastewater Superintendent

Enc.

cc: Henry A. Hoss, Chair
Mike Howard, Chief Engineer
Eugene Baker, Plant Operator